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Attorneys for Defendant
Otto Trucking LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

Waymo LLC,

Plaintiff,

v.

Uber Technologies, Inc., et al.,

Defendants.

Case No. 3:17-cv-00939-WHA

**DECLARATION OF HAYES P. HYDE IN
SUPPORT OF OTTO TRUCKING'S
OPPOSITION TO MOTIONS TO QUASH**

Hearing: August 28, 2017 at 1:30 p.m.

Courtroom: F-15th Floor

Magistrate Judge: Hon. Jacqueline Scott Corley

Trial: October 10, 2017

Filed/Lodged Concurrently with:

1. Opposition Letter Brief
2. Declaration of I. Neel Chatterjee

1 I, Hayes P. Hyde, declare as follows:

2 1. I am an associate at the law firm of Goodwin Procter LLP, counsel of record for
3 Defendant Otto Trucking LLC (“Otto Trucking”). I make this declaration based upon matters
4 within my own personal knowledge and if called as a witness, I could and would competently
5 testify to the matters set forth herein. I make this declaration in support of Defendant Otto
6 Trucking LLC’s Opposition to Plaintiff Waymo LLC’s Motion to Quash and Third Party Keker
7 Van Nest & Peters LLP’s (“Keker”) Motion to Quash and Motion for Protective Order (the
8 “Opposition”).

9 2. On August 18, 2017, the Court granted Otto Trucking’s motion to compel
10 discovery related to the investigation of electronic devices used by three former Waymo
11 employees, including Anthony Levandowski (the “Order”).

12 3. Pursuant to the Court’s August 18, 2017 Order, counsel for Otto Trucking issued
13 two subpoenas to produce documents and things and to appear for deposition to Keker and Keker
14 attorney Thomas Gorman (“Mr. Gorman”) on August 20, 2017 (the “Subpoenas”), noticing
15 August 24, 2017 as the date of deposition for both KVP and Mr. Gorman. Rachael Meny, counsel
16 with Keker accepted service of the Keker subpoena but refused to accept service of the subpoena
17 for Mr. Gorman.

18 4. I participated in a meet and confer on Tuesday, August 22, 2017 to address issues
19 raised by Keker related to the two Subpoenas. On this meet and confer, Ms. Meny stated she
20 would not accept service of the subpoena for Mr. Gorman because “he was out on paternity leave,
21 but more importantly, he was traveling this week” and would not be available on August 24. She
22 stated she would accept service if Otto Trucking served an amended subpoena for a different date
23 after August 24. James Baker of Quinn Emanuel stated that he was almost finished drafting a
24 stipulation between Otto Trucking and Waymo to allow for depositions related to the Order to
25 proceed after August 24 (the “Stipulation”). When I asked Mr. Baker whether this Stipulation
26 would include the depositions of Keker and Mr. Gorman, he stated it would. Ms. Meny requested
27 Otto Trucking wait until the Stipulation was on file before Otto Trucking serve an amended
28 subpoena. I then agreed with Ms. Meny to discuss separately a date when Mr. Gorman would be

1 available.

2 5. In the morning of August 23, 2017, the Stipulation was filed. Because Ms. Meny
3 had stated she would provide a date certain for the deposition of Mr. Gorman and would accept
4 service after the Stipulation was filed, but because she had not contacted me after the Stipulation's
5 filing, I emailed Ms. Meny an Amended Subpoena at 3:40 p.m. Based upon her representations on
6 our August 22, 2017 phone call that any time the week of August 28 would be acceptable, the date
7 of deposition of Mr. Gorman in the Amended Subpoena was August 31, 2017. I requested she
8 accept service of the Subpoena of Mr. Gorman.

9 6. At 5:53 p.m. on August 23, 2017, Ms. Meny replied that August 31st would not
10 work for Mr. Gorman or the attorney who would represent him.

11 7. At 5:59 p.m. on August 23, 2017, I replied requesting Ms. Meny provide a date for
12 the deposition of Mr. Gorman.

13 8. A day later, at 3:13 p.m. on August 24, 2017, Ms. Meny stated that Mr. Gorman
14 would be KVP's 30(b)(6) witness for the Subpoena issued by Otto Trucking. She requested, and
15 Otto Trucking agreed, to forgo further subpoenas of Mr. Gorman individually, as the deposition of
16 Mr. Gorman as a 30(b)(6) witness would be sufficient. I again requested Ms. Meny provide a date
17 for the deposition of Mr. Gorman. As of August 27, 2017, I have not received a response from Ms.
18 Meny. A true and correct copy of this e-mail is attached hereto as **Exhibit 1**.

19 9. Attached as **Exhibit 2** is a true and correct copy of excerpts of the certified
20 deposition transcript of Gary Brown, dated March 24, 2017.

21 10. Attached as **Exhibit 3** is a true and correct copy of excerpts of the certified 30(b)(6)
22 deposition transcript of Gary Brown, dated August 2, 2017.

23 11. Attached as **Exhibit 4** is a true and correct copy of a document produced by
24 Waymo in this litigation, Bates-stamped WAYMO-UBER-00012097.

25 12. Attached as **Exhibit 5** is a true and correct copy of a document produced by
26 Waymo in this litigation, Bates-stamped WAYMO-UBER-00084602 – 00084608.

27 13. Attached as **Exhibit 6** is a true and correct copy of a document produced by
28 Waymo in this litigation, Bates-stamped WAYMO-UBER-00083677 – 00083683.

14. Attached as **Exhibit 7** is a true and correct copy of a document produced by Waymo in this litigation, Bates-stamped WAYMO-UBER-00084565 – 00084570.

15. Attached as **Exhibit 8** is a true and correct copy of a document produced by Waymo in this litigation, Bates-stamped WAYMO-UBER-00084551 – 00084555.

16. Attached as **Exhibit 9** is a true and correct copy of a document produced by Waymo in this litigation, Bates-stamped WAYMO-UBER-00084492 – 00084505.

17. Attached as **Exhibit 10** is a true and correct copy of a document produced by Waymo in this litigation, Bates-stamped WAYMO-UBER-00084484 – 00084491.

18. Attached as **Exhibit 11** is a true and correct copy of a document produced by Waymo in this litigation, Bates-stamped WAYMO-UBER-00084520 – 00084521.

19. Attached as **Exhibit 12** is a true and correct copy of excerpts of the certified deposition transcript of Kristinn Gudjonsson, dated July 28, 2017.

20. Attached as **Exhibit 13** is a true and correct copy of excerpts of the certified deposition transcript of Sasha Zbrozek, dated August 18, 2017.

21. Attached as **Exhibit 14** is a true and correct copy of a document produced by Waymo in this litigation, Bates-stamped WAYMO-UBER-00083653-00083655.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed this 27th day of August, 2017 in San Francisco, California.

/s/ Hayes P. Hyde
Hayes P. Hyde

ATTORNEY ATTESTATION

I hereby attest, pursuant to Local Rule 5-1(i)(3), that I obtained the concurrence in the filing of this document from the signatory indicated by the conformed (/s/) of Hayes P. Hyde.

/s/ I. Neel Chatterjee
I.NEEL CHATTERJEE

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Northern District of California by using the CM/ECF system on August 27, 2017. I further certify that all participants in the case are registered CM/ECF users and that service of the Declaration, including all public and redacted exhibits attached hereto, will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct. Executed this 27th day of August 2017.

/s/ I. Neel Chatterjee
I. Neel Chatterjee